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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,275	08/05/2003	Michael E. Woolford	3616.111USC4	7063

7590 06/28/2007  
James A. Larson  
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EXAMINER
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NEUDER, WILLIAM P

ART UNIT	PAPER NUMBER
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3672

MAIL DATE	DELIVERY MODE
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06/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,275	WOOLFORD, MICHAEL E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William P. Neuder	3672	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-31, 33-53 and 55-85 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28-31, 33-53 and 55-72 is/are allowed.
- 6) ☒ Claim(s) 73-85 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 73,75-82,84 and 85 are rejected under 35 U.S.C. 102(b) as being anticipated by Guth 5795105.

Guth discloses a retaining wall block and a retaining wall formed from the blocks. The block has a front surface 12, a back surface 18, a top surface 10 that has a contact portion that is generally horizontal and planar, a bottom surface 8 that has a contact portion that is generally horizontal and planar and is configured to rest upon the contact portion of the top surface of a like block when the blocks are stacked in courses. The block has first and second sides 14,16. First and second insets 22A and 22B are provided in the first and second sides. Each inset is delimited by a front wall and a back wall that extend inwardly towards the opposite side. A wall interconnects the front and back walls. A locator protrusion 26 is formed integrally on the block top surface. The front, back and interconnecting walls each extends from a surface that is generally coplanar with the generally horizontal and planar contact portion of the surface opposite the surface on which the one or more locator protrusions 26 is formed. Each protrusion is adapted to interact with a wall of an inset block in an adjacent course of blocks when the blocks are stacked in courses. The insets and locator protrusions contact each

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other in a shear-resisting position in which interference between the protrusion and inset walls resist tendency of a block in an upper course to slide forward in response to the forces exerted by the retained earth. The protrusions and insets are sized and shaped to permit relative rotation of the insets and protrusions to facilitate construction of serpentine walls. As to claim 75, for each inset 22, the front and back walls are substantially parallel to each other. As to claim 76, the front and back walls of the insets are substantially parallel to the back surface. As to claim 77, the length of the front wall is greater than the length of the back wall. As to claim 78, the height of the front back and interconnecting walls is substantially the same. As to claim 79, the protrusions include a curved portion that is configured to contact the front or back wall of an inset in shear-resisting position. As to claim 80, the distance between the portions of the top surface and bottom surface is substantially equal to the height of the front surface. As to claims 81 and 85, protrusions 26 comprise first and second curved portions connected by a joining section. As to claim 82, the opposed sides have surfaces that converge towards each other as they extend from the front surface towards the rear surface. A locator wall is formed in each block side at a location between the front and rear surfaces, the locator walls extending generally planar and horizontal. The locator walls being adapted to interact with a protrusion on a block in an adjacent course. The protrusions and locator walls resist the tendency of the block in an upper course to slide in response to force exerted by the retained earth. The locator protrusions and walls are sized and shaped to facilitate construction of serpentine walls while maintaining

shear-resisting position. As to claim 84, the protrusions 26 include a curved portion to contact the locator wall in shear-resisting position.

Claims 73,75-82,84 and 85 are rejected under 35 U.S.C. 102(b) as being anticipated by Anchor/Wall WO 04/08097.

Anchor/Wall discloses a retaining wall block and a retaining wall formed from the blocks. The block has a front surface 12, a back surface 18, a top surface 10 that has a contact portion that is generally horizontal and planar, a bottom surface 8 that has a contact portion that is generally horizontal and planar and is configured to rest upon the contact portion of the top surface of a like block when the blocks are stacked in courses. The block has first and second sides 14,16. First and second insets 22A and 22B are provided in the first and second sides. Each inset is delimited by a front wall and a back wall that extend inwardly towards the opposite side. A wall interconnects the front and back walls. A locator protrusion 26 is formed integrally on the block top surface. The front, back and interconnecting walls each extends from a surface that is generally coplanar with the generally horizontal and planar contact portion of the surface opposite the surface on which the one or more locator protrusions 26 is formed. Each protrusion is adapted to interact with a wall of an inset block in an adjacent course of blocks when the blocks are stacked in courses. The insets and locator protrusions contact each other in a shear-resisting position in which interference between the protrusion and inset walls resist tendency of a block in an upper course to slide forward in response to the forces exerted by the retained earth. The protrusions and insets are sized and shaped to permit relative rotation of the insets and protrusions to facilitate construction of

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serpentine walls. As to claim 75, for each inset 22, the front and back walls are substantially parallel to each other. As to claim 76, the front and back walls of the insets are substantially parallel to the back surface. As to claim 77, the length of the front wall is greater than the length of the back wall. As to claim 78, the height of the front back and interconnecting walls is substantially the same. As to claim 79, the protrusions include a curved portion that is configured to contact the front or back wall of an inset in shear-resisting position. As to claim 80, the distance between the portions of the top surface and bottom surface is substantially equal to the height of the front surface. As to claims 81 and 85, protrusions 26 comprise first and second curved portions connected by a joining section. As to claim 82, the opposed sides have surfaces that converge towards each other as they extend from the front surface towards the rear surface. A locator wall is formed in each block side at a location between the front and rear surfaces, the locator walls extending generally planar and horizontal. The locator walls being adapted to interact with a protrusion on a block in an adjacent course. The protrusions and locator walls resist the tendency of the block in an upper course to slide in response to force exerted by the retained earth. The locator protrusions and walls are sized and shaped to facilitate construction of serpentine walls while maintaining shear-resisting position. As to claim 84, the protrusions 26 include a curved portion to contact the locator wall in shear-resisting position.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 73-85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The independent claims are directed to a retaining block. However, numerous claim limitations are directed to blocks in courses. It is not understood if applicant is attempting to claim a block or a retaining wall. The claims have been treated as if applicant is claiming a retaining wall.

***Allowable Subject Matter***

Claims 28-31,33-53 and 55-72 are allowed.

Claims 74 and 83 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



William P Neuder  
Primary Examiner  
Art Unit 3672

W.P.N.